

REMARKS

Status of the claims:

Claims 1, 2, and 4-14 are pending with claims 5 and 9-14 having been withdrawn from a prior restriction requirement. Thus, claims 1, 2, 4, and 6-8 are ready for further action on the merits. Reconsideration is respectfully requested in light of the following remarks.

Rejections under 35 USC §103

Claims 1, 2, and 4 are rejected under 35 USC §103(a) as being unpatentable over Bansleben '664 (US Patent No. 6,410,664) and Bansleben '715 (US Patent No. 6,197,715).

Applicants traverse.

In the Office Action of February 17, 2004, the Examiner states:

It is noted that the transition metal the working examples of US 6,410,664 is Ni rather than a metal from Groups 4-6 and 11; however, the transition metals of Group 4 such as Zr, Ti, and Hf and Group 6 are expressly taught in col. 4, lines 46-50.

Thus, it would have been obvious to a skilled artisan at the time the invention was made to employ the teaching of 6,410,664 to conduct copolymerization between polar and non-polar olefins in the presence of Group 4 or 6 transition metal containing catalyst since such is taught in the reference and expected to work and in the absence of showing criticality and unexpected result. (Please see page 3 of the Office Action).

Applicants, herein, attach a 37 CFR §1.132 declaration by Dr. Shigekazu Matsui, one of the inventors of the instant invention, wherein he tested the catalyst of Bansleben '664 and Bansleben '715. These polymerization tests used the same protocol as appears in Example 1 of the written description except that the Ni catalyst in Bansleben '664 and Bansleben '715 was used instead of the titanium complex (1) of the present invention. As is noted on page 3 of the declaration, polymerization of the desired polymer was not obtained when the Ni catalyst was used.

Accordingly, the instant invention possesses unexpectedly superior results relative to either of Bansleben '664 or Bansleben '715, as is demonstrated in the attached 37 CFR §1.132 declaration. In other words, the present invention reveals that catalysts containing transition metals of Groups 4 to 6 and 11 yield excellent polymerization activity where as Group 10 metals, such as Ni catalysts are totally inactive. The rejection is inapposite. Withdrawal of the rejection is warranted and respectfully requested.

Allowable Claims

Applicants thank the Examiner for acknowledging that claims 6-8 are allowable.